

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SIRIUS XM RADIO INC.,	:	x
	:	
	:	
Plaintiff,	:	
	:	
	:	
v.	:	Civil Action No. 09 CIV 4083 (NRB)
	:	
TECHNOLOGY PROPERTIES LTD., PATRIOT	:	ORAL ARGUMENT
SCIENTIFIC CORP., AND ALLIACENSE LTD.,	:	REQUESTED
	:	
	:	
Defendants.	:	
	x	

NOTICE OF MOTION AND MOTION TO DISMISS OR, IN THE ALTERNATIVE,
TRANSFER VENUE PURSUANT TO 28 U.S.C. § 1404(a)

TO PLAINTIFF SIRIUS XM RADIO INC. AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that at a time at which this matter can be heard in Courtroom 21A of the Daniel Patrick Moynihan Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, the Honorable Naomi Reice Buchwald presiding, Defendants TECHNOLOGY PROPERTIES LTD., PARTIOT SCIENTIFIC CORP., AND ALLIACENSE LTD., will and hereby do, pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure, move this Court for an order to dismiss this action or, alternatively, to transfer this action to the United States District Court for the Northern District of California pursuant to 28 U.S.C. §1404(a). Dismissal under Federal Rule of Civil Procedure 12(b)(3) is appropriate because Defendants do not transact sufficient business in New York to warrant venue under 18 U.S.C. §1391(c). In the alternative, the case should be transferred to the Northern District of California because the action could have been brought in that forum, and notions of efficiency

and convenience weigh in favor of transfer. Three cases – involving five of the seven patents at issue here – have been pending in the Northern District since 2008 and have been administratively related by Judge Jeremy Fogel.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Law in Support, the Declarations of Nan E. Joesten, Daniel E. Leckrone, and Cliff Flowers, filed in support, all pleadings, exhibits and papers on file in this action and any other matters properly before the Court. Defendants also request a hearing for oral argument.

WHEREFORE, Defendants respectfully request that the Motion be granted.

Dated: June 17, 2009

Respectfully submitted,

FARELLA BRAUN + MARTEL LLP

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